

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
AT ST. JOSEPH

In re:

Earthworks Excavation Company

Debtor

Case No. 13-50778  
Chapter 11

The Commons Development Group, LLC

Debtor

Case No. 13-50430  
Chapter 11

**MOTION FOR JOINT ADMINISTRATION OF CHAPTER 11 CASES**

COMES NOW, Earthworks Excavation Company and The Commons Development Group, LLC (collectively, the “Debtors”) by and through undersigned counsel hereby move hits Court for the entry of an order pursuant to Fed. R. Bank. P. 1015(b) directing the joint administration of the Debtors’ Chapter 11 cases and the consolidation those cases. In support of this Motion, Debtors state as follows:

**Background**

1. The Commons Development Group (“The Commons”) filed for Chapter 11 Bankruptcy on July 9, 2013.
2. Earthworks Excavation Company (“Earthworks”) filed for Chapter 11 Bankruptcy on December 3, 2013.
3. The Commons is owned completely by Earthworks. Both companies are in the business of real estate development and sale of real property in St. Joseph, Missouri.
4. Both The Commons and Earthworks have indebtedness to BankLiberty. Both companies, with the consent of BankLiberty, have cross-collateralized their loans.
5. Ownership of the assets of both The Commons and Earthworks has been compromised due to instructions from the City of St. Joseph and BankLiberty.
6. The two companies are, essentially one company with joint ownership.

**Legal Basis for Relief Requested**

7. The Debtors request that this Court: (i) allow the joint administration of the Debtors’ chapter 11 cases; and (ii) direct parties in interest to use a consolidated caption, indicating that

any pleading they file relates to the joint administered bankruptcy cases of “Earthworks Excavation Company, *et al.*” A proposed consolidated caption for all notices, applications, motions and other pleadings (“Proposed Caption”) is attached herein as Exhibit A. The Debtors also request that the Court find that the Proposed Caption satisfies the requirements of section 342(c)(1) of the Bankruptcy Code in all respects

8. Bankruptcy Rule 1015(b) provides, in relevant part, “[i]f a joint petition or two or more petitions are pending in the same court by or against...a debtor and an affiliate, the court may order a joint administration of the cases.”

9. Local Rule 1015-1 states:

“In all joint petitions filed with the Court, the case will be administrated through joint administration of the estates without further Court order unless the trustee or other interested party files an objection to joint administration within 14 days after the conclusion of the first meeting of creditors.”

10. The Debtors, consisting of a parent corporation and a subsidiary are “affiliates,” as that term is defined in section 101(2) of the Bankruptcy Code. Accordingly, this Court is authorized to grant the relief requested.

11. The joint administration of the Debtors’ chapter 11 cases will permit the Clerk of the Court to utilize a single general docket for these cases and combine notices to creditors of the Debtors’ respective estates and other parties in interest. Entering an order directing joint administration of the Debtors’ chapter 11 cases will avoid the need for duplicative notices, motions and applications, thereby saving time and expense. Joint administration also will enable parties in interest in each of the above-captioned chapter 11 cases to be apprised of the various matters before the Court in all of these cases.

12. Furthermore, joint administration will: (i) significantly reduce the volume of pleadings that otherwise would be filed with the Clerk of this Court; (ii) render the completion of

various administrative tasks less costly; (iii) minimize the number of unnecessary delays associated with the administration of separate chapter 11 cases; and (iv) protect the creditors of each of the Debtors' estates against potential conflict of interest.

13. Pursuant to section 342(c)(1) of the Bankruptcy Code, "[i]f notice is required to be given by the debtor to a creditor...such notice shall contain the name, address, and last 4 digits of the taxpayer identification number of the debtor." The Proposed Caption contains all the required information and, therefore, satisfies the terms of section 342(c) of the Bankruptcy Code.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached hereto as Exhibit A: (i) granting the relief sought herein; and (ii) granting to the Debtors such other and further relief as the Court may deem proper.

SADER LAW FIRM, LLC

By: /s/ Bradley D. McCormack

Neil S. Sader, MO#34375  
Bradley D. McCormack, MO# 54338  
2345 Grand Boulevard, Suite 1925  
Kansas City, Missouri 64108-2663  
816-561-1818  
Fax: 816-561-0818  
[nsader@saderlawfirm.com](mailto:nsader@saderlawfirm.com)

COUNSEL FOR DEBTOR AND  
DEBTOR-IN-POSSESSION

#### NOTICE OF MOTION

Any response to the motion must be filed with 21 days of the date of this notice, pursuant to Local rule 9013-1C, with the Clerk of the United States Bankruptcy Court. Parties represented by an attorney shall file electronically at <https://ecf.mowb.uscourts.gov>. Pro se parties shall mail filings to: United States Bankruptcy Court, Western District of Missouri, 400 East 9<sup>th</sup> Street, Room 1510, Kansas City, MO 64106. Pursuant to 9013-1D, responses shall address the merits of the motion and, if applicable, set out actions to remedy the particular problem. The Court will serve such response electronically on the Trustee, debtor's attorney and

all other parties to the case who have registered for electronic filing. Respondent shall serve all parties who are not served electronically.

If a response is timely filed, a hearing will be held on a date and time determined by the Court. Notice of such hearing will be provided to all parties in interest. If no response is filed within 21 days, the Court will enter an order.

For information about electronic filing go to [www.mow.uscourts.gov](http://www.mow.uscourts.gov) or call the Court's HELP line at 1-800-466-9302.

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was served upon the Matrix of both Debtors by First Class Mail on this 3<sup>rd</sup> day of December, 2013.

/s/ *Bradley D. McCormack*

Bradley D. McCormack, Attorney

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